



Board of Administration

Agenda Item 8h

March 21, 2018

Item Name: Proposed Decision – In the Matter of the Appeal Regarding the Final Compensation Calculation of GEORGE B. MAGALLANES, Respondent, and LOS ANGELES COUNTY, Respondent.

Program: Employer Account Management Division

Item Type: Action

Parties' Positions

Staff argues that the Board of Administration should adopt the Proposed Decision.

Respondent George B. Magallanes' (Respondent Magallanes) position is included in Attachment C, if any.

Strategic Plan

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

Procedural Summary

Respondent Magallanes established membership with CalPERS on June 15, 1973, and has earned 1.968 years of CalPERS service credit. On June 30, 1979, Respondent Magallanes separated from employment with a CalPERS contracting agency but retained his CalPERS membership. Since July 1, 1979, Respondent Magallanes has been a member of the Los Angeles County Employees' Retirement Association (LACERA) which entered a Reciprocal Agreement with CalPERS on July 1, 1979. Respondent Magallanes was last employed by Los Angeles County (County) as a Deputy Sheriff. Respondent Magallanes applied for service retirement with CalPERS with an effective retirement date of December 31, 2015, and has been receiving his retirement allowance from that date. CalPERS reviewed Respondent Magallanes' final compensation as reported by County, and determined that the reported Pensionable Cafeteria Plan, Pensionable Sick Buyback, Pensionable Vacation Buyback, Patrol and Custody Training Pay, and Patrol Station Retention Bonus should not be included in Respondent Magallanes' final compensation for purposes of determining his CalPERS retirement allowance even though LACERA counted these items in calculating Respondent Magallanes' final compensation. Respondent Magallanes submitted an appeal regarding the calculation of his final compensation by CalPERS, and the matter was heard by

the Office of Administrative Hearings on December 11, 2017. The County, despite being properly notified of the hearing, failed to appear and its default was taken. A Proposed Decision was issued on January 10, 2018, granting the appeal in part and denying the appeal in part.

Alternatives

A. For use if the Board decides to adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System hereby adopts as its own Decision the Proposed Decision dated January 10, 2018, concerning the appeal of George B. Magallanes; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

B. For use if the Board decides not to adopt the Proposed Decision, and to decide the case upon the record:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated January 10, 2018, concerning the appeal of George B. Magallanes, hereby rejects the Proposed Decision and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board's Decision shall be made after notice is given to all parties.

C. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated January 10, 2018, concerning the appeal of George B. Magallanes, hereby rejects the Proposed Decision and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

D. Precedential Nature of Decision (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System requests the parties in the matter concerning the appeal of George B. Magallanes, as well as interested parties, to submit written argument regarding whether the Board's Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.

2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, hereby designates as precedential its Decision concerning the appeal of George B. Magallanes.

Budget and Fiscal Impacts: Not applicable

Attachments

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support